

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NEW JERSEY BACK INSTITUTE
A/S/O JUAN RODRIGUEZ,

Plaintiff,

v.

HORIZON BLUE CROSS BLUE
SHIELD INSURANCE COMPANY,
ABC CORP. (1-10),

Defendants.

Civil Action No. 2:12-4985 (SDW)

ORDER

February 27, 2014

WIGENTON, District Judge.

Before this Court is Defendant Horizon Blue Cross Blue Shield of New Jersey's¹ ("Horizon") Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56. Plaintiff New Jersey Back Institute ("NJBI") opposes the motion. For the reasons stated in this Court's Opinion dated February 27, 2014, it is hereby

ORDERED that Horizon's Summary Judgment Motion is **GRANTED** with respect to NJBI's claims brought pursuant to the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.*; and it is further

¹ Defendant was pled as "Horizon Blue Cross Blue Shield Insurance Company" but identifies itself as "Horizon Blue Cross Blue Shield of New Jersey."

ORDERED that Horizon's Summary Judgment Motion is **DENIED** with respect to Horizon's counterclaim to recoup the payment it made to NJBI; and it is further

ORDERED Horizon's Summary Judgment Motion is **DENIED** with respect to its application for attorneys' fees and costs.

s/Susan D. Wigenton, U.S.D.J.

Orig: Clerk
Cc: Madeline Cox Arleo, U.S.M.J.
Parties